

\_\_\_\_ BILL NO. \_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ECONOMIC JUSTICE BY INCREASING THE TIME FOR FILING A COMPLAINT WITH THE COMMISSION FOR HUMAN RIGHTS; AND AMENDING SECTIONS 49-2-501 AND 49-2-510, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 49-2-501, MCA, is amended to read:

**"49-2-501. Filing complaints.** (1) A person claiming to be aggrieved by any discriminatory practice prohibited by this chapter may file a complaint with the department.

(2) A complaint may be filed on behalf of a person charging unlawful discrimination prohibited by this chapter if the person acting on behalf of the charging party is the charging party's guardian, attorney, or duly authorized representative or an advocacy group, labor organization, or other organization acting as an authorized representative.

(3) The complaint must be written and verified and must state the name and address of the party alleged to have engaged in the discriminatory practice and the particulars of the alleged discriminatory practice.

(4) (a) Except as provided in 49-2-510 and subsection (4)(b) of this section, a complaint under this chapter must be filed with the department within ~~180 days~~ 3 years after the alleged unlawful discriminatory practice occurred or was discovered.

(b) If the charging party has initiated efforts to resolve the dispute underlying the complaint by filing a grievance in accordance with any grievance procedure established by a collective bargaining agreement, contract, or written rule or policy, the complaint may be filed within the greater of 3 years or 180 days after the conclusion of the grievance procedure if the grievance procedure ~~concludes~~ begins within ~~120 days~~ 3 years after the alleged unlawful discriminatory practice occurred or was discovered. ~~If the grievance procedure does not conclude within 120 days, the complaint must be filed within 300 days after the alleged unlawful discriminatory practice occurred or was discovered.~~

(5) If the department determines that the complaint is untimely, it shall dismiss the complaint on a finding of no reasonable cause. A charging party may file objections to the dismissal with the commission pursuant to

1 49-2-511."

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3 **Section 2.** Section 49-2-510, MCA, is amended to read:

4 **"49-2-510. Procedures and remedies for enforcement of housing discrimination laws.** (1) A  
5 complaint may be filed with the department by or on behalf of a person claiming to be aggrieved by any  
6 discriminatory practice prohibited by 49-2-305. The complaint must be written and verified by the aggrieved  
7 person and must be filed with the department within ~~180 days~~ 2 years after the alleged unlawful discriminatory  
8 practice occurred or was discovered.

9 (2) If in a hearing under 49-2-505 the department finds that a person against whom a complaint was filed  
10 under this part has engaged in a discriminatory practice in violation of 49-2-305, the department may, in addition  
11 to the remedies and injunctive and other equitable relief provided by 49-2-506, to vindicate the public interest,  
12 assess a civil penalty:

13 (a) in an amount not exceeding \$10,000 if the respondent has not been adjudged in any prior judicial  
14 or formal administrative proceeding to have committed any prior discriminatory housing practice in violation of  
15 49-2-305; and

16 (b) in an amount not exceeding \$25,000 if the respondent has been adjudged in any prior judicial or  
17 formal administrative proceedings to have committed one or more similar discriminatory housing practices in  
18 repeated violation of 49-2-305 during the 5-year period ending on the date of the filing of the written complaint.

19 (3) In the case of a decision with respect to a discriminatory housing practice in violation of 49-2-305 that  
20 occurred in the course of a business subject to licensing or regulation by a governmental agency, the department  
21 shall, no later than 30 days after the date of the issuance of the order send a copy of the decision to the licensing  
22 or regulatory agency.

23 (4) (a) Following completion of the informal investigation of a complaint filed under 49-2-305, a charging  
24 party or a respondent may elect to have the claims decided in a civil action in lieu of a hearing under 49-2-505.  
25 The election must be made in writing no later than 30 days after the service of notice of hearing under 49-2-505  
26 on the electing party. The election must give notice to the department and to all other parties named in the  
27 complaint. Within 30 days after the election is made, the charging party, the commissioner, or the aggrieved party  
28 may commence a civil action in an appropriate district court on behalf of the aggrieved party if the department  
29 has made a finding that the allegations of the complaint are supported by a preponderance of the evidence. If  
30 the department has made a finding that the allegations of the complaint are not supported by a preponderance

1 of the evidence, the charging party may commence a civil action in an appropriate district court in accordance  
2 with subsection (5). An aggrieved party with respect to the issues to be determined in a civil action brought by  
3 the department may intervene in the action.

4 (b) The department may not continue administrative proceedings on a complaint after an election is  
5 made in accordance with subsection (4)(a). The charging party may commence a civil action in an appropriate  
6 district court in accordance with subsection (5). An aggrieved party with respect to issues to be determined in a  
7 civil action brought by the department may intervene in the action.

8 (5) (a) An aggrieved party may commence a civil action in an appropriate district court within 2 years  
9 after an alleged unlawful discriminatory practice under 49-2-305 occurred or was discovered or within 2 years  
10 of the breach of a conciliation agreement entered into under 49-2-504 in a case alleging a violation of 49-2-305.  
11 The computation of the 2-year period does not include any time during which an administrative proceeding under  
12 this title was pending with respect to a complaint alleging a violation of 49-2-305. The tolling of the time limit for  
13 commencing a civil action does not apply to actions arising from breach of a conciliation agreement.

14 (b) An aggrieved party may commence a civil action under this subsection (5) for a violation of 49-2-305  
15 whether or not a complaint has been filed under 49-2-501 and without regard to the status of a complaint filed  
16 with the department, except as provided in subsection (5)(d). If the department has obtained a conciliation  
17 agreement with the consent of the aggrieved party, an action may not be filed under this subsection (5) by the  
18 aggrieved party regarding the alleged violation of 49-2-305 that forms the basis for the complaint except for the  
19 purpose of enforcing the terms of the agreement.

20 (c) The commission or the department may not continue administrative proceedings on a complaint after  
21 the filing of a civil action commenced by the aggrieved party under this subsection (5) seeking relief with respect  
22 to the same alleged violation of 49-2-305.

23 (d) An aggrieved party may not commence a civil action under this subsection (5) with respect to an  
24 alleged violation of 49-2-305 if the commission or the department has commenced a hearing on the record under  
25 49-2-505 regarding the same complaint.

26 (e) Upon application by a person alleging a violation of 49-2-305 in a civil action under this subsection  
27 (5) or by a person against whom the violation is alleged, the court may:

28 (i) appoint an attorney for the applicant and the respondent; or

29 (ii) authorize the commencement or continuation of a civil action without the payment of fees, costs, or  
30 security if, in the opinion of the court, the party is financially unable to bear the costs of the civil action. As in all

1 actions brought in forma pauperis, the burden of showing lack of financial ability rests with the party claiming  
2 financial hardship.

3 (6) If the court finds that a party against whom a complaint was filed under this section has been  
4 adjudicated in a civil or formal administrative proceeding to have engaged in a similar discriminatory practice in  
5 violation of 49-2-305, the court may, consistent with the provisions of subsection (2) of this section, award punitive  
6 damages. The court may also award attorney fees and costs to the substantively prevailing party.

7 (7) All civil damages and penalties, monetary or otherwise, awarded under this section to an organization  
8 that is not an aggrieved party must be deposited in the state general fund."

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